

**AMENDMENTS TO THE DRAWINGS**

The attached sheets of drawings includes changes to Figure 1 and Figure 2. These sheets, which includes Figures 1 and 2, replaces the original sheets including Figures 1 and 2. “(Prior Art)” labels have been added to both Figures 1 and 2.

Attachment:      Replacement Sheet (Figure 1)  
                    Replacement Sheet (Figure 2)

**REMARKS**

Claims 1-16, 18, and 26-41 were pending. By virtue of this response, claims 2-3, 11-12, 26-28, and 36-40 are amended. Therefore, claims 1-16, 18, and 26-41 are presently pending. Amendment and cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented. No new matter is added.

**Priority**

Applicant thanks the Examiner for acknowledging the claim for foreign priority based on United Kingdom application 0318529.5 filed August 7, 2003. Applicant submitted a certified copy of the application on April 23, 2008.

**Drawings**

Figures 1 and 2 were objected to and indicated to be designated by a legend such as – Prior Art—because allegedly only that which is old is illustrated.

In response, Figures 1 and 2 have been amended with appropriate labels. No new matter is added. Applicant respectfully request the objections to Figures 1 and 2 be withdrawn.

**Specification**

The specification is objected to because it contains an embedded hyperlink.

In response, paragraph [0024] of the specification has been amended to delete the embedded hyperlink. Accordingly, Applicant respectfully requests the objection to the specification be withdrawn.

**Claim Objections**

Claim 26 is objected to because of an informality.

In response, claim 26 has been amended to include the word “comprising” after “base station”. Accordingly, Applicant respectfully requests the objection to claim 26 be withdrawn.

### **Claim Rejections Under 35 U.S.C. §101**

Claims 36-39 rejected under 35 U.S.C. 101 because the claimed invention is allegedly directed to non-statutory subject matter.

In response, claims 36-39 have been amended to direct the claims to statutory subject matter. Applicants respectfully request the rejections of claims 36-39 under 35 U.S.C. 101 be withdrawn.

### **Claim Rejections Under 35 U.S.C. §102**

Claims 1, 2, 4, 10, 11, 13, 34, 36, 37, 39, 40 and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Giorgi et al. (U.S. Patent 5,802,446) (“Giorgi”).

In response, Applicant respectfully disagrees. Claim 1 recites, among other things, “receiving a signal and producing therefrom in a detector a detected signal; producing from the received signal a first noise variance signal representative of noise variance in the received signal; and producing from the detected signal and the first noise variance signal a second noise variance signal representative of noise variance estimation in the received signal.”

(Emphasis added).

In contrast, Giorgi discloses calculating channel noise variance from only a test signal to determine noise inherent to a receiver. This is described in the abstract as follows: “The test means calculates for the plurality of frequencies both the transfer function of the channel and the channel noise variance.” This is illustrated in Fig. 6 and described in the following paragraph, for example:

This sequence is sampled [block 120] after which a Fourier transform is performed [block 130] during each period constituting the sequence, to produce the measured transfer function of the channel. The method successively selects [block

140] each authorized communication band and then determines the characteristic channel features in each of these communication bands. It produces the power of the signal  $H^2(f_i)$  [block 150] and the noise power  $\sigma^2(f_i)$  [block 250] of the channel. Finally [blocks 160, 260], an estimation of the mean signal power is made in accordance with equation (5) and an estimation of the mean noise power in accordance with equation (6). (Emphasis added). (Col. 5, lines 39-50).

Therefore, Giorgi fails to disclose or suggest at least “producing from the received signal a first noise variance signal” and “producing from the detected signal and the first noise variance signal a second noise variance signal representative of noise variance estimation in the received signal,” as recited in claim 1.

Therefore, Applicant respectfully submits claim 1 is allowable over Giorgi. For at least the same reasons, independent claims 10, 34, 36, 40 and 41 are allowable over Giorgi. Accordingly, claims 2, 4, 11, 13, 37, and 40 are allowable for at least the reason each are dependent from an allowable base claims.

Accordingly, Applicant respectfully requests reconsideration and allowance of claims 1, 2, 4, 10, 11, 13, 34, 36, 37, 39, 40 and 41.

### **Claim Rejections Under 35 U.S.C. §103**

Claims 26, 27, 29 and 35 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Giorgi in view of Ryde et al. (U.S. Patent 6,181,739 B1) (“Ryde”).

Ryde fails to cure the deficiencies of Giorgi. Therefore, for at least the foregoing reasons, independent claims 26 and 35 are allowable over Giorgi in view of Ryde. Further, claims 27 and 29 are allowable for at least the reason each depends on an allowable claim.

Accordingly, Applicant respectfully requests reconsideration and allowance of claims 26, 27, 29, and 35.

Claims 3, 5, 8, 9, 12, 14, 18 and 38 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Giorgi in view of Kim et al. (U.S. Publication 2003/0086380 A1) (“Kim”). Claims 6, 7, 15 and 16 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Giorgi in view of Karlsson et al. (U.S. Publication 2002/0057730 A1) (“Karlsson”). Claims 28, 30 and 33 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Giorgi in view of Ryde and further in view of Kim. Claims 31 and 32 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Giorgi in view of Ryde and further in view of Karlsson.

Each of claims 3, 5-9, 12, 14-16, 18, 28, 30-33, and 38 depend from either base claim 1, 10, 26, 34, 35, 36, 40, or 41. Therefore, for at least the reason each claim depends on an allowable base claim, claims 3, 5-9, 12, 14-16, 18, 28, 30-33, and 38 are allowable.

Accordingly, Applicant respectfully requests reconsideration and allowance of claims 3, 5-9, 12, 14-16, 18, 28, 30-33, and 38.

**CONCLUSION**

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No.: 03-1952 referencing docket no.: 562492006600. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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